

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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EMILY FORSYTHE

Plaintiff,

v.

WAYFAIR, LLC

Defendant.

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Civil Action No. 1:20-cv-10002

**AFFIDAVIT OF LYNN KAPPELMAN**

I, Lynn Kappelman, under penalty, do hereby depose and state as follows:

1. I am over 18 years of age and I understand the obligation of an oath. I am an attorney with the law firm of Seyfarth Shaw LLP, the firm retained by Defendant to represent it in this matter. I submit this affidavit in support of Defendant's Statement of Undisputed Facts in Support of its Motion for Summary Judgment.
2. Annexed as Exhibit 1 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of excerpts of the Deposition of Emily Forsythe.
3. Annexed as Exhibit 2 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of excerpts of the Deposition of Michael McDole.
4. Annexed as Exhibit 3 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of excerpts of the Deposition of Matthew Witte.
5. Annexed as Exhibit 4 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of excerpts of the Deposition of Kory McKnight.

6. Annexed as Exhibit 5 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of excerpts of the Deposition of Trevor Shaffer-Figueroa.
7. Annexed as Exhibit 6 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of excerpts of the Deposition of Candice Smith.
8. Annexed as Exhibit 7 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of excerpts of the Deposition of Brittaney Skaggs.
9. Annexed as Exhibit 8 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of excerpts of the Deposition of Jim Lowe.
10. Annexed as Exhibit 9 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 2 of the Deposition of Emily Forsythe.
11. Annexed as Exhibit 10 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 4 of the Deposition of Emily Forsythe.
12. Annexed as Exhibit 11 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 5 of the Deposition of Emily Forsythe.
13. Annexed as Exhibit 12 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 6 of the Deposition of Emily Forsythe.
14. Annexed as Exhibit 13 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 8 of the Deposition of Emily Forsythe.
15. Annexed as Exhibit 14 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 9 of the Deposition of Emily Forsythe.

16. Annexed as Exhibit 15 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 12 of the Deposition of Emily Forsythe.
17. Annexed as Exhibit 16 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 13 of the Deposition of Emily Forsythe.
18. Annexed as Exhibit 17 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 14 of the Deposition of Emily Forsythe.
19. Annexed as Exhibit 18 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 15 of the Deposition of Emily Forsythe.
20. Annexed as Exhibit 19 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 16 of the Deposition of Emily Forsythe.
21. Annexed as Exhibit 20 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 17 of the Deposition of Emily Forsythe.
22. Annexed as Exhibit 21 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 18 of the Deposition of Emily Forsythe.
23. Annexed as Exhibit 22 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 19 of the Deposition of Emily Forsythe.
24. Annexed as Exhibit 23 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 20 of the Deposition of Emily Forsythe.
25. Annexed as Exhibit 24 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 21 of the Deposition of Emily Forsythe.

26. Annexed as Exhibit 25 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 22 of the Deposition of Emily Forsythe.
27. Annexed as Exhibit 26 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 23 of the Deposition of Emily Forsythe.
28. Annexed as Exhibit 27 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 1 of the Deposition of Matthew Witte.
29. Annexed as Exhibit 28 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 2 of the Deposition of Matthew Witte.
30. Annexed as Exhibit 29 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 4 of the Deposition of Matthew Witte.
31. Annexed as Exhibit 30 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 5 of the Deposition of Matthew Witte.
32. Annexed as Exhibit 31 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 8 of the Deposition of Matthew Witte.
33. Annexed as Exhibit 32 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 1 of the Deposition of Kory McKnight.
34. Annexed as Exhibit 33 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 2 of the Deposition of Kory McKnight.
35. Annexed as Exhibit 34 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 3 of the Deposition of Trevor Shaffer-Figueroa.

36. Annexed as Exhibit 35 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Exhibit 9 of the Deposition of Trevor Shaffer-Figueroa.
37. Annexed as Exhibit 36 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_000079. This file was produced as an Excel spreadsheet. In order to be able to e-file the document and have it be readable by the Court, we have converted the Excel spreadsheet to a PDF and added page numbers for ease of reference for the Court.
38. Annexed as Exhibit 37 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of a magnified version of Shaffer-Figueroa's notes of interview with Brittaney Skaggs (excerpted from WAYFAIR\_000079) for ease of reading by the Court.
39. Annexed as Exhibit 38 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of a magnified version of Shaffer-Figueroa's notes of interview with Jim Lowe (excerpted from WAYFAIR\_000079) for ease of reading by the Court.
40. Annexed as Exhibit 39 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of a magnified version of Shaffer-Figueroa's notes of interview with Michael McDole (excerpted from WAYFAIR\_000079) for ease of reading by the Court.
41. Annexed as Exhibit 40 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of a magnified version of Shaffer-Figueroa's notes of interview

with Stella Karadimas (excerpted from WAYFAIR\_000079) for ease of reading by the Court.

42. Annexed as Exhibit 41 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of a magnified version of Shaffer-Figueroa's notes of interview with Kory McKnight (excerpted from WAYFAIR\_000079) for ease of reading by the Court.
43. Annexed as Exhibit 42 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_000215.
44. Annexed as Exhibit 43 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_000408.
45. Annexed as Exhibit 44 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_000526-27.
46. Annexed as Exhibit 45 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_001271-72.
47. Annexed as Exhibit 46 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_001301.
48. Annexed as Exhibit 47 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_001318.
49. Annexed as Exhibit 48 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_001364.

50. Annexed as Exhibit 49 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of WAYFAIR\_001369-72.

51. Annexed as Exhibit 50 of the Appendix to Defendant's Statement of Undisputed Facts is a true and correct copy of Plaintiff's Response to Request for Admission No. 1.

(PLAINTIFF\_000084 was produced by Plaintiff as an audio file, so Defendant is filing the transcript of the audio file and the Response to Defendant's Request for Admission that affirms that it is an accurate transcript.)

Signed under the pains and penalties of perjury this 6th day of November 2020.

/s/ Lynn A. Kappelman

**CERTIFICATE OF SERVICE**

I hereby certify that on November 6, 2020, a true copy of the foregoing document was electronically filed through the Court's ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants.

/s/ Lynn A. Kappelman

Lynn A. Kappelman